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**SECURITY TRADE CONTROLS IN AUSTRIA**

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SECURITY TRADE CONTROLS IN AUSTRIA

SUMMARY

1. Austria's security trade controls rest on two foundations: on Austrian administration and on the elaborate system of controls introduced and exercised by the United States Element of Occupation in Austria. The two systems are closely correlated and supplement each other.

Austria's controls are roughly equal in scope to those prevailing in the United States; they exceed by far the control obligations undertaken by members of COCOM, the informal international control organization, located in Paris.

Occupied Austria, for obvious reasons, is not a member of this group of sovereign states but it participates in all measures adopted by this body.

2. Since Austria's controls are directed against one of the four powers which occupy the country jointly and with equal rights, all controls activities have to be handled with special care and discretion to achieve the desired goal and protect the personal safety of the officials involved.

3. Pertinent legislation was promulgated in the spring of 1951; among a group of economic laws the "Foreign Trade Act" ranks foremost with regard to control matters. None of the laws contains specific provisions for West-East trade; these are covered by the general trade regulations and so are the lists of strategic goods which are included, but not revealed, in the over-all lists of commodities subject to controls for reasons of commercial policy.

Austria's licensing activities are under the direct responsibility of the Ministry for Trade and Reconstruction. Currency controls are exercised through the National Bank. A high intragovernmental body, the Economic Directorate, decides on matters of economic policy, including the guiding principles for trade agreements. Austria participates in the Import Certificate - Delivery Verification (IC/DV) system and its recently improved import certificate is considered the best so far developed. The allocation of raw materials by the government, under the Raw Materials Control Act, permits further indirect controls.

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4. The exercise of export controls in Austria is frustrated to a considerable degree by the fact that a number of important industries -- presumably former German assets -- have been put under direct Soviet administration and are thus removed from the control of their own government. The enterprises within this so-called USIA combine may ship goods in and out of the country as "Soviet military transports" without license or even without the knowledge of the Austrian Government.

Controls in Austria must therefore include the judicious withholding of strategic goods from these industries without ruining them because -- though Soviet controlled -- they continue to be an integral and vital part of the Austrian economy.

5. The controls exercised by the US authorities in Austria originated with the supervision and distribution of US aid. They were gradually developed and improved under the operation of the Marshall plan, beginning in 1948. When the Battle Act came into force in early 1952, they were tightened and adapted to its special purposes.

US controls consisted largely in the security screening of US exports to Austria. In the course of time, however, almost every facet of trade and commercial policy came under US scrutiny. These functions were carried out through two interagency committees in which the US civilian and military authorities in Austria were represented. Early in 1953 the two committees -- the East-West Trade and the Vienna Screening Committee -- were superseded by a single body, the Trade Advisory Panel (TAP). It is composed of representatives of the Foreign Operations Administration, the Embassy and the Army. Extensive and valuable information on Austria's economy has been accumulated by the US Element in Austria, in the course of its controlling activities.

6. Cooperation between the US authorities in Vienna and the Austrian Government is very close and comprehensive but of necessity completely informal and confidential. US officials sit in on the deliberations of Austria's interministerial Trade Advisory Board when it discusses licensing problems and questions of commercial policy; US officials follow step by step all trade negotiations with Soviet bloc countries and keep a close watch on the kind and quantity of strategic goods which Austria must agree to deliver in order to obtain certain essential counterdeliveries; US officials exerted their influence on the composition of the commodity lists

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which are subject to Austrian export license and which include -- but do not reveal -- all items on the US and the international strategic lists; US officials intervene in cases of economic hardship caused to individual firms by the blocking of Eastern trade; US officials also review all important export applications for shipments to the Soviet bloc and keep informed on all USIA license requests.

7. Because of this close collaboration the number of Battle Act exceptions required for Austria was exceedingly small. All cases were previously known to the US authorities in Vienna and the majority of them concerned prior commitments. In view of Austria's sensitive political situation the presidential letters of exception for Austria are designated as secret in contrast to the exception letters for other countries which are not classified.

8. Transit trade through Austria which lies directly on the way from West to East, presents the same problems as elsewhere but aggravated by Austria's geographical location. The international agreements which govern the free movement of goods from a country of origin to any destination through intervening territory prevail in Austria as in any other Western country. Legally, controls can be exercised only by the country of origin. Austria complies with this rule. The US authorities, however, under the extraterritorial rights of an occupation power, have stopped suspicious shipments at bordercrossings on several occasions -- not without ensuing legal complications.

9. With the cessation of economic aid to Austria as of January 1954, economic pressure for a relaxation of the strict controls against trade with the Soviet bloc will increase in the country. As long as the US remains in Austria with the special rights of an occupying power it will be able to exert the necessary restraining influence. In the long run, however, the continuation and success of security trade controls in Austria will depend on the opportunities for commercial outlets in the West which would insure the country's newly-won economic health and prevent a backsliding into its traditional partial dependence on the East.

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## I. INTRODUCTION

### The Quadripartite Occupation of Austria

The situation of Austria ranks among the most complex problems in the whole picture of West-East relations. In the field of strategic trade controls it is doubtlessly baffling and unique.

Austria is a small country with an area of 32,000 square miles and a population of about 7 million; but because of its strategic location, its traditional place in West-East relations and its present role in international power politics, it occupies one of the most crucial positions in the West-East struggle.

The country is still occupied by the four Big Powers and is divided into four occupation zones; yet it is governed as an undivided entity by its own laws and by its own freely elected government. The Austrians have complete freedom of movement throughout the four zones.

The Soviet occupied zone is the most populated of the four, comprising approximately 27 percent of the population. Austria's capital, Vienna, a city of about 1.7 million inhabitants, lies in the midst of Soviet zone. All access to Vienna -- which is partly under international control -- leads through Soviet occupied territory or through two air corridors which have been internationalized.

Yet the communist vote in Austria, including the Soviet zone, has never exceeded 5 percent; the communists hold only four seats of the 165 in the Lower House and one seat among the fifty in the Upper Chamber.

The four Powers enjoy equal extraterritorial rights under the Occupation statute; they are united in the joint control of Vienna and in the Allied Control Council which may interfere in Austria's internal matters and legislative processes.

Yet the Austrian Government cooperates with one of the occupying powers in the application of strategic controls against one of the others, and it does so under legal provisions which could not have been promulgated without the tacit consent of the very power against which they are now applied.

Another unusual complication in the Austrian picture is the existence of the USIA combine, a group of Austrian industries which have been placed under direct Soviet Administration; they enjoy the privilege of shipping goods in and out of the country as "military transports" without license, without payment of duties, taxes or fees, and without even the knowledge of the Austrian Government. They are thus in a position to frustrate comprehensive trade controls from the outset.

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### Austria's Trade Relations with Eastern Europe

These paradox features of the Austrian situation are superimposed on basic economic conditions which by themselves would have rendered the introduction of security trade controls difficult enough. They are first and foremost Austria's traditional dependence on trade with the East; its difficulty to compete in Western markets; the ever present social and economic threat of unemployment which is closely correlated to the extent of its export business; the country's geographical location which makes it a natural transit route for shipments from the West to the Soviet bloc.

Historically, the economies of Austria and those of Eastern Europe were dependent on each other. Despite profound changes in recent years they continue to be complementary in many ways. Austria traditionally traded its manufactured goods against the grain, coal and other raw materials of the countries which now form the European satellites. Some of them were part of the Austro-Hungarian Empire less than four decades ago. A considerable portion of Austria's industry was geared to the needs and specifications of these countries which offered ready markets. Austria's trades people, for generations, were familiar with the tastes and customs of Eastern Europe and skilled in catering to them.

The employment situation of Austria's industrial labor force depends to an appreciable degree on the country's Eastern trade. Whenever trade negotiations are held up or individual orders are stopped for strategic reasons the possibility of unemployment and other economic repercussions have to be considered and it is often difficult to decide where the balance of advantage lies.

Austria's principal Eastern trading partners, at present, are Czechoslovakia and Poland. East Germany has recently assumed increased importance. Trade with Hungary and the Balkan countries is of smaller volume but quite essential in some respects. Trade agreements are in existence or under consideration with all European satellites. The USSR has so far declined to negotiate any formal trade treaties with Austria.

During the period between the two world wars about one third of Austria's foreign trade was conducted with the countries of Eastern Europe.\* In the late forties, before the effective application of export controls, Austria's Eastern trade amounted to about 19 percent of its total foreign trade.

\* See Appendix I for a Statistical Summary of Austria's Prewar and Postwar Trade by Value

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After 1950 the share of recorded Soviet bloc trade, excluding USIA shipments, dropped sharply and has since then remained with little variations at about 11 percent of Austria's imports and at 11 to 13 percent of its exports. Even at this level, Austria still has the largest percentage of Soviet bloc trade of any Western country, except Finland. The reduction to the present figure represents nevertheless a remarkable achievement in view of the special circumstances and the high starting point.

It is, however, a moot question if this conspicuous reduction in Austria's trade with the Soviet bloc was mainly brought about by the introduction of comprehensive security trade controls under American guidance and supported by concurrent large-scale American aid which enabled Austria to make dollar purchases.

There can be no doubt that other essential factors contributed importantly to this development; foremost among them was the economic boom and merchandise hunger, caused by the Korean war, which opened Western markets to Austrian products and relieved the internal pressure for exports to the East. In leaner periods Austria is not generally competitive in the West because of its specialization and high manufacturing costs.

An additional important element in the reduction of Bloc trade, moreover, was not of the West's making. It was due to the East's growing inability to offer satisfactory export goods in desired quality and quantity and to effect deliveries and payments on time. One of the most vexing problems of Austria's commercial policy during the last two, or possibly three, years was the recurrent high indebtedness on clearing account of the Soviet bloc countries. The Austrian Government found it necessary, on several occasions, to put pressure on some of its Eastern trade partners by suspending its own deliveries -- sometimes for a number of months -- until the agreed counter deliveries were forthcoming and the debtor country's technical credit margin was reduced. Thus the East itself contributed in part to the shrinkage of Austria's Soviet bloc trade.

Security trade controls alone, however, are usually held responsible in Austria for the limitations of the country's Eastern trade and most of Austria's economic difficulties are blamed on these restrictions. There are persistent complaints in the country, many from responsible and informed quarters, that the curtailment of trade with the Soviet bloc causes unemployment, stymies industrial development, forces Austria into dollar outlays for expensive imports and generally cripples its economic life. These arguments are shrewdly exploited by the small but vociferous communist groups for their own purposes in a way which often carries weight with groups of completely different political persuasion.

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Like many other Europeans the Austrians show a curious differentiation between their political sympathies which are overwhelmingly pro-Western and their business considerations which favor an expansion of trade with the East on purely economic grounds.

II. AUSTRIAN ADMINISTRATION OF TRADE CONTROLS

General Remarks

Almost all European countries handle security trade controls within their system of general economic and trade controls without specific additional legislation. For Austria especially, in view of its singular political situation, it would have been impossible to establish any legal provisions which would openly restrict the country's trade with the Soviet bloc. All security trade controls have to rely on the method of application of a general law rather than on a set of rules which would clearly reveal their purpose.

Security export controls in Austria rest on two foundations: on Austrian legislation and on the elaborate system of controls introduced and exercised by the United States Element of Occupation in Austria. The two systems are closely correlated and supplement each other.

Ever since 1948, when security export controls were introduced in the United States, Austria has applied security measures in intimate collaboration with the US occupation authorities. Under a bilateral agreement, concluded in the fall of that year, Austria is obliged to institute controls "parallel to those in the United States", that is, much stricter controls than the ones agreed to in COCOM. For obvious political reasons Austria never became a member of this body.

The Economic Legislation of 1951

Austria's present controls are based on a set of laws which were introduced in the spring of 1951. They were prompted by the difficult economic situation in which the country found itself at the time. The rise in world prices for raw materials caused by the Korean War, turned the terms of trade against Austria which is essentially a manufacturing country. Austria faced an alarming balance of payments situation and an inflationary price-wage movement.

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The new economic legislation was primarily introduced to direct exports and imports into the most favorable economic channels, to preserve scarce materials, to control the foreign exchange situation and balance the internal price structure. The mechanism created for these purposes is well suited for the exercise of security trade controls but it must be reiterated here again that in Austria, as in most European countries, these special controls are only incidental to the over-all system of foreign trade and exchange regulations.

The five laws which control Austria's economic life today were enacted in April 1951 and became effective in May 1951 after consideration by the Allied Council (which includes the Soviets) and following their publication in the Federal Gazette. They are:

- The Foreign Trade Act of 1951
- The Raw Materials Control Act of 1951
- The Amendment of 1951 to the Price Control Act
- The Reintroduction of the Food Control Act of 1948
- The Act Establishing an Economic Directorate of the Federal Government.

The Foreign Trade Act of 1951 is the basic law for the regulation of exports and imports but the other four laws, enumerated above, furnish supplementary provisions in the way of policy direction, administrative supervision, price control and raw material allocation. They all contribute in some way to the various forms of denial operations directed against the Soviet bloc.

The Foreign Trade Act starts with the statement that foreign trade is on principle free from any restrictions in Austria. Goods enumerated in two appended lists, however, are subject to control and license, for reasons of domestic needs, shortages and balance of payments considerations. These two lists, called A and B, contain a vast number of important commodities which also cover in broad categories, and without identifying them, virtually all items on the International Control Lists and those which are subject to controls under US regulations. The law makes no distinction as to countries of destination and no security licensing criteria are set forth since the country is, of course, in no position to discriminate overtly against any of the occupying powers.

Trade controls are administered by the Federal Ministry for Trade and Reconstruction in concurrence with the Economic Directorate of the Federal Government.

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The Economic Directorate is an interministerial and interagency body, composed of all except two members of the Austrian Council of Ministers as well as of representatives from the National Bank, and the Chambers of Industry, Labor and Agriculture. It is presided over by the Federal Chancellor. The Economic Directorate is the highest authority in Austria in all matters of economic policy. In the foreign trade field it establishes the directives for export and import programs, for the conclusion of trade agreements and for certain foreign exchange problems.

While the Economic Directorate lays down the broad over-all principles for the country's economic policy at cabinet level, a Foreign Trade Advisory Board (not to be confused with the US Trade Advisory Panel "TAP"), is charged with executing foreign trade matters within the policy framework established by the Directorate. The membership of the Trade Advisory Board is roughly similar to that of the Directorate but the representation is below cabinet level; it is composed of representatives of almost all ministries, the chambers of Industry, Labor and Agriculture, of the National Bank and of the Federal Lander (States). Both parties of the coalition government (the Peoples Party and the Socialists) are represented within the membership. Decisions have to be unanimous. Membership is honorary, i.e., unpaid, and all members are pledged to discretion.

This body decides on all matters in the export-import licensing field which go beyond routine. Owing to the unanimity rule a major licensing decision can become a political issue. Frictions can also arise from differences between the policy determination of the Economic Directorate and its interpretation by the subordinated but rather independent Foreign Trade Advisory Board. A famous incident of this type occurred in the summer of 1951 when the Minister of Transport, a Socialist, held up all licensing procedures for several days until an export license for pitprops to which he objected (on other than strategic grounds) was withdrawn though it had been approved by the Minister of Trade, a Peoples Party man, in conformity with instructions from the Economic Directorate. A court decision in 1952 finally removed export licensing from bipartisan control which was exercised largely with political motives.

A representative of the American Embassy attends on an informal and confidential basis the meetings of the Trade Advisory Board which deal with license screening. Thus the close collaboration between the US occupation authority and the Austrian Government is built right into the very procedure of license approval.

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Licensing Procedure

The issuance of licenses is carried out in the Central Office for Export and Import ("ZAE" or Zentralstelle Ausfuhr/Einfuhr) which is an organ of the Ministry of Trade but is located in a different building. Austrian export licenses, once issued, are irrevocable except in cases of misdemeanor. "Prior commitments" entered into and licensed before the enactment of the Battle Act therefore had to be honored under Austrian law. In a very few rare instances a license was withdrawn under a special arrangement for overriding political reasons. But they represent exceptions to an otherwise firmly established rule.

The validity period for Austrian licenses is six months from the date of issue. A single extension for three months may be granted upon application; further extensions require a special procedure. License applications which go beyond routine matters are submitted to the appropriate commodity sections in the Ministry of Trade for recommendation of approval or denial. Ferrous metals and machinery are handled in Section 13 of the Ministry; nonferrous metals and scrap in Section 17; chemicals and pharmaceuticals in Section 6; all other commodities including electrical equipment in Section 14. The final decision is made either in conference by the Trade Advisory Board or, in simpler cases, by the commodity section itself. The time limit for the whole procedure is 28 days and is generally adhered to.

Foreign exchange permits are issued concomitantly with the import license; they have a validity period of only three months. Extensions may be secured from the Austrian National Bank upon proper justification.

Penal provisions and their application are effective enough, by and large, to deter the average offender. They consist of stiff fines, the threat of confiscation of the goods involved in an illegal transaction and possible jail sentences. But the big notorious East-West traders in Vienna usually manage to avoid a brush with the law. Their business, based on generations old connections and experience in trading with the East, is largely conducted by mail. They use their far flung trading, banking and shipping connections all over the world and take advantage of existing legal loopholes, especially in the field of transit trade. The goods they divert to the East are seldom brought within Austria's territorial jurisdiction. It is usually easier to frustrate some of their deals through physical interference with the cargo than to bring the traders to trial.

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### Participation in the IC/DV System

During the latter part of 1951 and in the early months of 1952 the member countries of COCOM gradually introduced among themselves a system of guarantees designed to prevent the diversion of strategic materials through re-exports from friendly countries. The import certificates or "IC's" (not to be confused with import licenses) are a guarantee of the country of destination that the firm named as importer is acting in good faith and that the imported goods will be used in the country's own economy and not be reexported. The delivery verification consists in a later confirmation, after investigation, that the guarantee given through the IC has been fulfilled. Both IC's and DV's are issued only upon request of the exporting country. Most countries are satisfied with the IC alone which they consider a sufficient guarantee; delivery verifications are requested only infrequently.

Austria, though not a member of COCOM, has sporadically issued written guarantees against diversions of imports from the West since approximately the time when COCOM countries began to operate this system among themselves. Most of the first Austrian certificates were for imports from the US and from West Germany. In the beginning, no specific rules were followed as to type and form of the import certificates. Sometimes they were issued, without coordination, by various desks in the Ministry of Trade, mostly without a special commodity check; sometimes they were nothing more than statements by various local Chambers of Commerce with notarized signatures. Fraud and misuse was not infrequent under these circumstances.

A new standardized certificate was developed by the Austrians in late 1952 and early 1953, in close cooperation with US officials stationed in Vienna. A copy of this new document was submitted by the US delegate to a COCOM session in March 1953 as an example of the best form yet evolved.

These new certificates are printed on numerically controlled, water-marked safety paper. They are issued by the Federal Ministry of Trade on presentation of the following documents: a valid Austrian import license, a foreign currency permit from the National Bank, a sworn statement by the importer and a letter of confirmation by the Austrian Chamber of Commerce. The appropriate commodity section of the Ministry, mentioned before, must endorse the transaction. Each commodity group is assigned a definite set of numbers which are made known to the COCOM countries, together with the signatures of the signing officer in the respective commodity section. This method makes forgeries almost impossible.

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The Austrians call this document quite logically an "end use certificate" (Endverwendungsbescheinigung), since it represents a guarantee by the government that the imported goods will be used in the domestic production process and will not be reexported; it corresponds, however, in content, form and purpose, to the import certificate of the IC/DV system.

The US Embassy considers this new Austrian document superior to the IC's agreed upon by the COCOM members and at least equal to the Swiss Blue certificate.

Austria is not yet equipped to conduct delivery verifications on a broad scale and has not adopted a standard DV form, but it is ready to conduct DV investigations for a moderate number of cases.

IC/DV and USIA: The Austrian Government has declared that it does not intend to issue end-use certificates for USIA firms. The US Embassy believes, however, that this intention cannot be carried out consistently. All COCOM members have therefore been asked to handle export licenses to Austria with special care and to consult the Austrian Watch lists, COCOM Documents #982 of 28 November 1952 and #1203 of 24 April 1953, before approving export licenses based on an Austrian import certificate (see chapter on USIA). If necessary the Trade Advisory Panel, "TAP", of the United States authorities in Vienna could and should be asked to assist in making required checks and furnishing advice (see chapter on "American Controls in Austria").

Licensing and the Liberalization Program of OEEC

Austria participates in the liberalization program of the Organization for European Economic Cooperation, but it does so at a much slower pace than other countries.

In view of its greatly improved economic situation Austria is striving for a 50 percent liberalization by January 1954, a considerable increase over its present 35 percent. This means that quota controls will be taken off from a specified half of all the goods entering or leaving the country. Austria will continue to require licenses for all commodities in foreign trade, including those on the liberalization list, but licenses for the latter ones will be granted automatically without further checks. A loophole may possibly develop out of this situation, especially if liberalization should reach a still higher percentage. Yet so far no case of violation of security controls is known to have resulted from the liberalization program.

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### Public Reaction to Security Controls

The cooperation of the Austrian Government in the field of security trade controls has been very good. But it has to contend with an adverse public opinion and must be circumspect in handling this task. The Austrian population, though overwhelmingly anti-communistic, does not generally accept the fact that restrictions on trade with the East which they blame for recurrent unemployment and other economic ills, are needed to the now prevailing extent in order to protect Western security.

The attacks on trade controls and on the American influence in this field are by no means limited to the small but energetic group of communists. They come from business quarters as well and they have found a strong voice in the present government in the person of Trade Minister Illig who believes that in the absence of sufficient markets in the West, Austria must expand its trade with the Soviet bloc to survive economically.

It is worth noting that the licensing mechanism is the only sector in the Austrian trade control system which is centralized. The responsibility for the controls--both the broad policy making aspects of it as well as the decisions in the more important individual cases--are widely diffused throughout the government through the medium of interagency committees. The US authorities in Vienna have repeatedly urged that the responsibility for trade controls should be centralized in the Foreign Office in order to strengthen them and preclude the recurrence of slip-ups which were usually due to the decentralized method of administering controls. Yet there are very valid reasons for the seeming vagueness which characterizes the distribution of responsibility for trade controls among several ministries and an undefined number of bureaus and desks within them: in view of the constant threat of retaliation by the Soviets and in the face of violent criticism in the press and in public discussions, no individual office or official cares to be clearly identified with the control function.

The attacks on trade controls have at times been so vicious that trade control officials feared for their personal safety. Last spring a senior official of the Foreign Office, in charge of liaison with the US authorities in Vienna, had to be shifted from his job to a less exposed position in the Foreign Office for his own protection. Liaison work, left in the hands of only one junior employee, suffered accordingly. At about the same time an invitation by the US for an exchange of study teams on export controls under the Technical Assistance provisions of the Battle Act was politely but firmly declined with the explanation that no group of government

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employees could or would dare to associate themselves openly with such a project which could not be kept secret. The government let it be known that if the US insisted they might be persuaded to send one official alone who would be less conspicuous than a group and whose mission could be easier disguised under another purpose.

The cessation of US economic aid to Austria at the end of the current calendar year will increase Austria's restiveness under the present stringent security trade controls and will remove the threat of sanction which the US officials have been holding up to now. Even during 1953 the opinion could occasionally be heard in the press and in public utterances that the amount of aid was far too small to justify the economic sacrifices due to loss of trade with the East.

The US authorities in Austria have shown great skill and understanding in handling the ever-recurring problem of striking an acceptable balance between security considerations and economic necessity. This flexible approach was greatly facilitated under the provisions of the United States new policy determination set forth in NSC 152/2 of last July. The coming months will continue to witness the contradictory development of increasing perfection of the control mechanism on the one hand and on the other hand a steadily growing political and economic pressure for a relaxation of controls and an expansion of East-West trade.

III. AMERICAN CONTROLS IN AUSTRIA

Background

Ever since the end of the war the US held a special position among the four occupying powers as the only one which furnished economic aid to the country. Outright relief, given directly or through UNRRA immediately after the war, was followed by "interim aid" for relief and reconstruction during the period preceding the introduction of the Marshall Plan in the spring of 1948. Through the administration of aid the US Element acquired the nucleus of a staff with growing experience and familiarity with the special problems of the country. Close working contacts developed between the American authorities in Austria and the Austrian Government.

Thus the US Element in Austria was in an excellent position, in 1948, to carry out the control functions connected with the Marshall Plan, and four years later to apply the much stricter

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controls of the Battle Act. They were greatly aided in this task by the unique intelligence opportunities available in the country through censorship of the mails (which has since been abolished) through various kinds of trade information, through contacts with Austrian government sources and through the possibility of observing Soviet activities at close range.

There is very close cooperation in the field of Economics among the various US agencies stationed in Vienna. The Embassy and the Special Mission for Economic Cooperation (now FOA) have pooled their forces in the same building and the Embassy's Economic Division serves them both. An Organization Chart\* is attached to this report to illustrate this situation. It will be seen that several high functionaries serve in dual capacity. The changes which occurred since the chart was issued in March 1953 did not alter the principle of successful integration of work.

The investigations and other economic studies undertaken by the American Authorities in Austria have led to the accumulation of voluminous files on the Austrian economy as a whole and on individual Austrian firms in particular which contain a wealth of information and constitute an unsurpassed source of ready reference material which is usually consulted before any outside sources are approached.

On the basis of its rights as an occupation power the United States gradually developed a machinery for security trade controls in the country which it occupies jointly and on equal rights with the very nation against which the controls are directed. The anomaly of this situation permeates all security controls in Austria and accounts for their complicated nature.

#### The Mechanism of the US Security Trade Program in Austria

In May 1948, shortly after strategic trade controls were introduced in the United States, the American authorities in Vienna began to exercise selective screening for goods which entered Austria under an Export/Import Bank Loan.

In the fall of 1948 two standing committees were set up to implement the US Security Trade program in Austria: The East-West Trade Committee and the Vienna Screening Committee. Both committees were composed of representatives from the Economic Cooperation

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\* See Appendix II

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Administration (ECA, later MSA), from the Legation (later Embassy) and from the US Military Forces in Austria (USFA). When a US civilian High Commissioner replaced the military administration of the country in 1952, his office was also represented on the two committees, but the USFA continued to retain membership.

In 1953 the functions of the two committees were combined in a single body the Trade Advisory Panel, "TAP". TAP's tasks are best illustrated by a description of its predecessors' responsibilities:

The East-West Trade Committee was responsible for carrying out the US East-West trade policy in Austria. This involved continued consultation with the Austrian Government on Austrian administration of and legislation for trade controls, on Austrian negotiations for trade agreements with countries of the Soviet bloc, on the quantitative limits for strategic goods and the adequacy of quid pro quo's. In this connection over-all problems of the Austrian economy came in for consideration, such as the question of alternate markets for goods which had traditionally been sold to the East, the problem of unemployment presumably caused by the refusal of orders from the Soviet bloc, price problems and problems of balance of payments; in fact, the whole range of questions connected with the task of reorienting Austria's trade from East to West without endangering the country's gradually returning economic health.

The committee also exchanged information with the Austrian Government on intelligence concerning clandestine East-West deals and induced the Austrians to take preventive steps, where feasible. Similar preventive action was sometimes successfully undertaken when prospective undesirable transshipments came to light in time for notification of the country of origin which alone has the legal authority to stop them.

The Vienna Screening Committee (VSC) was established as an operating body for security checks while the policy making aspects were left to the East-West Trade Committee.

The primary task of the VSC consisted in the screening of all US license applications for strategic shipments to Austria. An elaborate procedure was worked out between the Office of International Trade (OIT)\* in the U.S. Department of Commerce in Washington and the screening committee of the American Authorities in Vienna. License application papers filed in Washington were mailed to Vienna where the case was investigated and the findings reported back to OIT.

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\* Now EFC or Bureau of Foreign Commerce

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Since this method caused undue delays in license processing, the procedure was simplified as of 25 August 1952. Beginning with that date the VSC started screening the expected shipments from the US on the basis of the Austrian import license only and coincident with the receipt of the export license application by OIT. The VSC's recommendations for approval or denial -- usually for a considerable list of cases -- is cabled to the Department of Commerce. The VSC's suggestion is usually accepted, but the responsibility for the final decision rests in Washington. (See section on "Periodic Reports").

Aside from its main function, that of screening American exports to Austria, the VSC made its facilities available to any other Western country, especially members of COCOM, which might wish to have end use checks made for some or all of its exports. There were, however, only very few cases when such services were requested in spite of the fact that they were repeatedly and freely offered.



In the course of time many functions of the East-West Trade Committee and the Vienna Screening Committee were found to be overlapping. Moreover, the line of distinction between the two committees had been somewhat vague from the very beginning because the same staff members usually represented their agency in both groups. The Vienna Screening Committee, in addition, because of its very name had become the goal for Communist attacks on the Austrian Government for its alleged subservience to the United States in its control of East-West trade. It was therefore decided, early in 1953, to merge the two committees into one group with the innocuous title "Trade Advisory Panel".

The Trade Advisory Panel (TAP) continues the basic functions previously performed by the East-West Trade Committee and the Vienna Screening Committee in exercising control over the movement of strategic items entering or leaving Austria through legitimate trade channels. It also engages in the more complex and varied activities provided for within the framework of the US Economic Defense Program.

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The emphasis on the latter aspects is steadily increasing; they include cases of actual or attempted diversions, the methods by which they were accomplished and the development of countermeasures to frustrate them.

A most important part of TAP's work is concerned with the evaluation of Austrian trade with the Soviet bloc in terms of comparative advantage to the Austrian economy; this involves a very close cooperation between the American authorities and the Austrian Government on negotiations for trade agreements. It often necessitates direct contacts with important firms, such as Steyr-Daimler-Puch, for example, which constitute a power within the state; it includes deliberations on general economic problems resulting from restrictions of trade, such as the range of questions connected with finding alternate markets and reorienting the production of some industries for Western consumption.

The membership of the Trade Advisory Panel consists of representatives of US civilian and military authorities in Vienna. Its chairman is the Chief of the Embassy's Trade Analysis and Operations Branch, Mr. Frank B. Butler. The other Panel representatives are: the Controller of the MEC Mission to Austria, Mr. S. V. N. Powelson and an Army officer from G-2, U.S. Forces in Austria, Lt. Col. A. P. Jones.

Screening Criteria

For TAP as for its predecessor, the VSC, the principles which guide its screening activities are first and foremost security considerations, such as reliability of the end-user, safety from reexport, assurance that capital goods will not be used to manufacture strategic items for export to the Soviet bloc, etc.

Essential economic considerations, however, are equally taken into account and are assuming increasing importance, especially since last summer, when a policy of greater flexibility was laid down in the provisions of the MEC Determination 152/2. Under certain circumstances a potential security risk is weighed against an actual and tangible risk in the economic field (threatening unemployment, economic distress of an industry or an individual firm, possible permanent loss of a regular market, etc.) and a recommendation may be made in favor of a shipment on economic grounds even if it involves a calculated risk from the security angle.

Similar considerations prevail with regard to the geographical location of an end-user. Since Austria, in spite of the four-power occupation, is one entity under a single government, firms located

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in the Soviet zone are not excluded from receiving approved strategic imports from the US, if investigation proves that such firms produce for the Austrian economy and otherwise meet the basic screening standards. During the first quarter of 1953 about \$1.4 million worth of goods, representing about six percent of the shipments approved by OIT under the security rating system went to the Soviet zone of Austria; the three Allied Zones together received approximately 72 percent and the International Sector of Vienna 22 percent of the rated imports from the United States.

No approvals are ever given (or requested) for highly strategic exports to firms of the USIA complex which is under effective Soviet control (see chapter on "USIA"). With regard to non-strategic items, or items with low strategic rating, however, exceptions are sometimes made even for this group, when an enterprise occupies a monopolistic position for a product which is essential to the Austrian economy and when its entire output is sold to Austria. Examples of such enterprises are tanneries and shoefactories in the USIA combine and, foremost of all, the Unilever plant (fats, soaps and related products) which is considered indispensable to the Austrian economy and which, incidentally, still maintains very close ties with the motherfirm in England.

#### Periodic Reporting on Screening Activities

Two Departments (State and Commerce) and one Agency (Foreign Operations Administration) of the U.S. Government issue periodic reports on shipments to or from Austria which came under the scrutiny of American Authorities in Vienna. They are:

1. The "End-Use Reports" (unclassified) issued monthly in Vienna by the Office of the Controller, Foreign Operations Administration (formerly Economic Cooperation Administration). They report in tabular form, sometimes supplemented by textual explanations, on ECA-financed shipments to Austria. The primary considerations for investigations conducted under this program are economic; the security angle is only incidental, but is never neglected.

The cumulative figure of investigations carried out since the initiation of aid under the Marshall plan in May 1948 to the end of September 1953 was around 7,800. In 1953, upwards of 120 applications were handled monthly. The cessation of aid as of January 1954 is bound to bring about the discontinuance of these reports.

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2. The BFC (formerly OIT) Reports on Export License Applications Approved or Denied for Austria. They are confidential and are issued quarterly in Washington by the Bureau of Foreign Commerce under ACEP Program Determination No. 247 of 7 April 1952. The first report came out in February 1953, subsequent issues appeared quarterly with some delay. The report on the first quarter 1953 was issued in September, the second quarterly report appeared under the date of 26 October, the third report came out on 21 December 1953.

These reports tabulate the approval and denial of licenses by the Bureau of Foreign Commerce for strategic exports from the United States to Austria. (See section on the Vienna Screening Committee for a description of procedure). Decisions are primarily based on security considerations; the economic angle is secondary. The tables give the designation of the commodity, its Schedule B number, its security rating (only by list, not by number), the destination by occupation zone and the approval and denial by quantity as well as value.

As previously mentioned, strategic shipments represent only a fraction of the total US exports to Austria; during the first quarter of 1953 they amounted to slightly over six percent in value that is to \$1.38 million out of total first quarter shipments of \$22.5 million from the US to Austria. Some 150 to 300 applications for the export of these strategic items to Austria are being processed by the BFC per quarter.

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#### IV. THE USIA COMBINE AND SECURITY TRADE CONTROLS

##### The Problem of Soviet Controlled Industries

Under the Soviet interpretation of the Potsdam Agreement the Red Army seized as "German Assets"--and therefore as rightful booty--about 350 industrial and commercial enterprises in Austria when it entered the country in the spring of 1945. The Russians put these enterprises under a central organization, called "Administration of Soviet Enterprises in Austria" or "USIA" with headquarters in the international sector of Vienna, but generally controlled from Moscow.

The entire Austrian oil fields were equally taken over and placed under a Soviet Oil Administration (SMV). Both organizations conduct their business through the Soviet Military Bank in Vienna.

USIA and SMV together have exploited the country under the extra-territorial privileges of an occupying power through a constant drain of goods and services. Their takings over the years have been roughly estimated at over one billion dollars, an amount about equal to the cumulative economic aid furnished to Austria by the United States since the end of the war.

The SMV: The Administration of the oilfields or SMV is tightly controlled from Moscow, all higher positions are held by Russians, the intermediate level is manned by card-carrying Austrian communists. Physically, the property is fenced off by barbed wire and patrolled by units of the Soviet Army. Though Austria buys its petroleum from the SMV there is little daily intercourse between this organization and the rest of Austria.

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The USIA Combine: The position of the USIA combine, on the other hand, is completely different. The 350 establishments of which it is composed remain individual units with their own laborforce and different kinds of production. They are all located in the Soviet zone, but not all plants in the Soviet zone are by any means part of the USIA complex.

Notwithstanding the fact that the USIA enterprises consistently refuse to pay taxes or social security fees and that they ship goods in and out of the country as "military shipments" without payment of duties and without the use of licenses, they continue nevertheless to be an integral part of the Austrian economy. A sizable share of their production--ranging from under 50 percent for some plants to as much as a full 100 percent for others--flows back into the economic stream of the country; they employ Austrian workers and employees (very few of whom vote communistic) and in many cases also the managers are Austrian nationals, frequently not even members of the communist party. For some products, such as certain kinds of heavy machinery, electrical equipment, rollingstock, scrap, plateglass, light bulbs, fats and soap, rayon yarns, leather tanning and shoes, the Austrian economy is heavily or totally dependent on the output of the USIA plants and a considerable part of the Austrian labor force looks to them for employment.

#### USIA and Domestic Trade

In view of the fact that the country is one economic unit, transactions between a USIA enterprise and any Austrian establishment are considered normal domestic trade which--in theory, at least--proceeds without control or supervision.

The bearing department of Steyr-Daimler-Puch, a legitimate Austrian firm, for example, regularly supplies USIA plants with bearings. In 1951, these deliveries amounted to about \$280,000 or 8.4 percent of their total domestic sales of \$3.3 million; more than a third of the sales to USIA consisted of embargo-type (antifriction) bearings. Steyr, in turn, bought approximately \$1.7 million worth of goods from the USIA complex of which about 90 percent were not available elsewhere in the domestic market. Since that time the percentage share of deliveries to USIA has decreased, but the absolute amounts rose because of the general spurt in economic output.

Steyr contends that a large part of their bearing shipments to USIA is incorporated in products for the Austrian economy and quotes the following example: an order for \$21,000 worth of bearings was placed in 1952 by the Voith Werke in St. Poelten, a USIA plant. These bearings were needed for turbogears in Diesel motors, to be delivered to the Simmeringer Wagonfabrik, another USIA firm. The latter one installed these diesel motors in rail motor cars which it was building for the Austrian Federal Railroads.

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This seems a typical illustration for the closely interwoven relations between the Soviet controlled USIA combine and the free establishments in Austria, relations which could not be disentangled without serious repercussions to the whole economy.

Aside from the manufacturing enterprises which the Soviets have taken over and are controlling through the USIA, they have established a chain of retail outlets which sell USIA products and commodities imported from the European satellites, under the guise of military shipments. Since all the goods are procured free of taxes, duties or fees, the USIA retail stores can easily undersell and thus undermine legitimate Austrian business; it is one of many ways by which the Soviets have attempted to disrupt the Austrian economy. Very little can be done to combat this economic danger as long as the Soviets are occupying part of the country; the Austrian Government is stymied and cannot even openly admit authorship in the publicity campaigns against these stores which are carried by the newspapers at periodic intervals.

Possibilities for Controls

Under these anomalous conditions which are unmatched anywhere in the world, there can be no question of applying security trade controls in the usual sense against USIA. Relations with the USIA complex cannot be cut off in view of the economic conditions just described and still less because of the important political consideration that the West must carefully avoid any action which might lead to or could be interpreted as a partition of the country.

Whatever control measures can be taken are limited in scope but they have proven fairly effective in the course of time. The best results were achieved through judicious allocation of those raw materials which are under government control; recently, moreover, the traditional forms of export control through licensing became available in a modified way for this particular sector of the economy and are beginning to show some effect.

Controls through the Allocation of Raw Materials

Under the Raw Materials Control Act of 1951 the Austrian Government controls the procurement and sale of certain raw materials on grounds of scarcity, preservation of foreign exchange and other commercial policy considerations. The most important materials under control are: ferrous and nonferrous metals and scrap, coal, mineral oils, hides, skins and sulphur.

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Since the USIA complex constitutes an inseparable part of the Austrian economy, USIA enterprises participate in the general allocation of raw materials. The Austrian Government, however, tries to keep firm control over the amounts that go to USIA plants out of the domestic supply and of imports. In some instances raw materials have been allocated only in the exact quantities needed to execute a specific order for the Austrian economy. Stiff penalties for offenses against the Raw Materials Control Act cut to a minimum the amounts which may be diverted to black market channels where they would be available to USIA.

The raw material allocations have been the subject of constant haggling between the Austrian Government and the Soviet Occupation Authorities. Threats and promises are used by the Soviets to obtain larger quotas. Their most effective form of pressure in earlier years was the withholding of mineral oil supplies--which they control completely--or the threat of price increases on this commodity. In recent years the oil supply was ample and the Soviets were forced to sell for economic reasons. Their strongest weapon at present is the withholding of scrap, most of which comes from USIA plants, and the threat to slow down the movement of goods between their zone and the Western parts of the country through the erection of traffic barriers.

The Austrian Government counters with arguments of scarcity, with the request for payments of taxes by the USIA combine and with delaying tactics. They have stood their ground quite often; at other times they had to give in. Their's was the more vulnerable position until about eighteen months ago when the Soviets began to show signs of a weakening interest in the USIA complex.

Since the allocation problem is a domestic matter, the Austrian Government has to act on its own without benefit of US help or official advice; yet there are clear indications of informal consultations on these questions between the US Authorities in Austria and Austrian Government officials, though this is never openly admitted.

USIA Exports

It has been explained before that the USIA firms can send any delivery out of the country to the East as "military shipment", without Austrian export license, without paying any fees or duties, without even the knowledge of the Austrian Government. Almost all exports of this type are handled by JUSCHENESCHTRANS, a Soviet controlled forwarding firm.

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In this manner huge quantities of valuable strategic and non-strategic goods have been drained off each year. A rough estimate, made sometime ago, of the annual takings in recent years, put these exports at approximately \$50 million per year, about half of which consisted of petroleum products, the other half of such goods as mechanical and electrical machinery, cables, scrap, lumber, rayon, paper, paint, glass, light bulbs, etc.

Licensing of USIA Exports: Early in 1952, however, much to everybody's surprise, the USIA plants began to apply for regular export licenses for many of their shipments. The only explanation that could be found for this change in policy was USIA's need for Austrian schillings to defray expenses. A valid export license entitles the holder to obtain Austrian currency from the National Bank for the proceeds of his transaction; without it he has no official legal means of converting his earnings into local tender.

The USIA combine had been known, for some time, to be in a difficult financial situation, owing to bad management, unorthodox methods of calculation, and the unrealistically low prices at which they were forced to sell to the USSR. It has been claimed that some of the USIA plants were occasionally unable to meet their payroll. They were without doubt heavily indebted to their own financial institution, the Soviet Military Bank in Vienna.

Whatever the reason, USIA applications for export licenses continue. The Austrian Government is, of course, in no position to deny them, regardless of the type of goods, except in isolated cases on the grounds of scarce supply or commercial policy considerations. In certain ways Austria derives appreciable benefits from USIA's new policy. Austria is now being credited with these shipments as deliveries under its trade agreements and consequently receives a quid pro quo; it improves its foreign currency position through the receipt of payments at the National Bank; and it also obtains information on the kind and quantity of at least some of the goods that are being shipped from the Soviet-controlled enterprises.

It should be noted in this connection that all export licenses requested by USIA firms cover shipments to the European Satellites only; no requests have so far been submitted for exports to the USSR. It must be assumed that the USSR has either lost interest in obtaining goods from USIA or that it continues to satisfy its needs, as before, through uncontrolled and unrequited exports sent as "military shipments".

there is no over-all satisfactory information available as to the types and amounts of goods which are still being sent as military shipments. It is believed that these exports have been falling off considerably, but no clearcut confirmation has been obtained as yet.

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Screening of USIA Licenses by US Authorities: Under an informal agreement with Austrian officials the US Embassy receives all USIA applications for review prior to licensing. In this way it is possible to isolate license applications for those Battle Act items the export of which may be denied by the Austrian Government on grounds of scarce supply and for commercial policy considerations. Foremost among the latter is the recurrent accumulation by Austria of large export surpluses vis-a-vis some of the Soviet bloc countries without available counter-balancing imports. The "scarce supply" argument is invariably supported by expert opinion from the responsible commodity section in the Ministry of Trade; a denial recommended by the important section 13, "Iron, Metals and Machinery" is always heeded. Another reason for refusing an export license to a USIA firm is the non-USIA origin of the goods. Export applications by USIA for aluminum, for example, are denied because no aluminum is produced within the USIA combine.

Denials of USIA licenses are infrequent and, as explained, always substantiated by well grounded reasons. It is not known, however, if the withholding of a license for USIA goods actually prevents their export. They could very well be sent on their way as Soviet "military shipments" which are removed from any controls either by Austrian or US authorities. Information on this question is lacking.

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USIA as Potential Forwarder

It is usually assumed that USIA generally acts as intermediary for the shipment of Austrian or other Western goods to the East for which no valid export licenses could be obtained through prescribed legal channels. Actually, there seem to have been relatively few instances of such diversions in previous years. In the more recent past, since Western export controls became effective enough to prevent other forms of shipment, such transactions, or attempts at them, were more frequent but, as far as is known, never really numerous or general.

If they do occur it is done in the following way: A dummy sale to a USIA enterprise is arranged for the express purpose of forwarding the merchandise as USIA goods to some Eastern destination by way of a "military shipment" which requires no license. In view of the fact that the country is one economic unit, a transaction between any Austrian enterprise and a USIA firm is normal domestic trade which proceeds without special control or supervision. The intermediary in sales made with the intent of diversion is usually the forwarding firm INTRAC, not JUSCHWESCHTRANS, the regular Soviet forwarder. The USIA firm which lends its good services for these deals charges a commission of five percent or more which is borne by the buyer. As far as is known this technique has been used only for exports to the European satellites, not for shipments going to the USSR.

In the section on "Licensing of USIA Export" it has been stated that Austria denies export licenses to USIA firms for those goods which are not of USIA origin. The mere fact, however, that applications for such shipments continue to be filed justifies the assumption that certain difficulties are involved--possibly of a financial nature--in using the facilities of the "military shipments". No definite information has as yet come to light on this subject.

A return of the USIA combine under Austrian authority, without or before the conclusion of a Peace Treaty, is not completely outside the realm of possibility, radical as this proposition may seem. The Soviets have made several attempts to sell these industries to the Austrian Government for an amount of about \$150 million. These offers have been refused.

In view, however, of USIA's recurrent financial difficulties, the run-down condition of some of the plants and the fact that the Soviets seem to have obtained most of the advantages they ever expected from these industries--it may perhaps not be out of question to arrive at a negotiated settlement in the foreseeable future.

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A return of the USIA complex under the sovereignty of Austria would immediately close the most dangerous gap in East-West trade controls because it would stop the uncontrolled "military shipments" which have negated Austria's efforts in this field to a considerable extent.

V. TRANSIT TRADE THROUGH AUSTRIA

The Transit Trade Problem

Because of its geographic location, at the crossroads of East and West, Austria is a natural transit route for shipments to and from the Soviet bloc, especially the satellites. The income from railroad transportation and related services features prominently among the invisible assets of the Austrian balance of payments.

Up to the present, no direct controls of transit trade and transshipments have been agreed upon by the countries participating in or cooperating with COCOM though the question has been discussed for nearly three years. Shipments under a through bill of lading are considered untouchable by the country of transit under every national legislation in compliance with the various international transportation agreements which were concluded in the inter-war period and are still in force.

Whatever controls exist are limited to the export controls applied by the country of origin and combined with end use checks made in the country of destination. (IC/DV system) The transit country itself has no legal right either under national or international law to stop a shipment in transit.

The Stopping of Shipments

The United States, however, invoking the extraterritorial rights of an occupation power, on several occasions has stopped suspicious shipments at points of entry into Austria, mainly in Salzburg in the West. The British have followed suit in their zone of occupation, with Villach at the Southern border, the main point of detention.

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Legal Implications: The stoppage of a shipment invariably leads to lengthy and involved investigations which produce a host of legal complications. The main points to be brought out by such investigations are: the strategic character of the goods which are detained; proof that they are actually destined for the Soviet bloc; the identity of the original owner and of the shipper which is often difficult to ascertain, especially in the case of mixed consignments; the responsibility for the diversion which may lie either with the manufacturer, or with one or several middlemen, or with the forwarder, as individuals, or with the government of the exporting country if the shipment is travelling under valid export documents; the question of misuse or forgery of documents and of the applicability of legal sanctions; the problem of returning the goods to the country of origin and/or the original owner, if they can be ascertained; the question of the right of confiscation and by whom it should be exercised; the problem of possible liability under threatened damage suits, and a few other questions.

The one problem to be solved immediately in all cases is the responsibility for payment of demurrage and storage charges and other incidental costs resulting from the detention of a shipment. The US has so far defrayed all such costs out of MDAC (Battle Act) funds and has even reimbursed the British for their expenditures incurred when detaining a shipment in Villach, in their zone. The underwriting of such charges is being made with the understanding that as soon as the final responsibility for a diversion is determined, the US will be paid back in full for its outlay by the responsible government or person.

Illustrative Cases: Stoppages of shipments in transit have not been very numerous possibly because such action is worth while only in important cases, in view of the legal implications involved. Some of these cases may be summarized as follows:

1. In 1950, long before the enactment of the Battle Act, three American-made concrete paving machines destined for Hungary were intercepted and held in Salzburg for a considerable time; later they were impounded and used in the building of airfields in the West.

2. In December 1951 and January 1952 two mixed consignments, consisting mostly of ballbearings of German and Italian origin, and shipped by a Swiss forwarder to a Rumanian destination, were stopped in Salzburg and detained for many months until mid-1952 while investigations went on. Then, early in July, they were unhappily released by the railroad through an administrative slip-up without the knowledge of anybody in authority. They went on their way behind the Iron Curtain while American and Austrian officials, oblivious of this fact, were putting the finishing touches on an agreement for the final disposition of the shipment.



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3. In the summer of 1953 twelve freight cars of copper and copper wire were seized by the British at the Austrian-Italian border and held near Villach. In August they were returned to Italy into the custody of the government, pending an investigation of the responsibility for the diversion under Italian law. Italian officials informally ventured the opinion that the Allies had broken the shipping contract and could be held liable for damages but they did not want to pursue the matter. The case was still pending early in December.

4. At present, a shipment of ball bearings, obviously of German origin, are being detained in Villach, by the British. The shipper is apparently guilty of violations of German foreign exchange and trade laws and of forgery of documents, but the case is not amenable to an easy solution because its legal aspects with regard to confiscation or return of the shipment are involved and may require a reinterpretation of the relevant stipulations. The case falls within the jurisdiction of the State Attorney at Stuttgart who is not responsible to the German Federal authorities.

5. Another shipment of German ball bearings, consisting of 59 cases, is being detained by US forces in Salzburg since late September. The Swiss owner, who claims that the goods were destined for the Middle East, threatens legal proceedings, diplomatic intervention and exposure in the press of the US action which he terms as being "contrary to all international custom and law". Legal action on this case seems to have been stymied. It falls equally within the competence of the State Attorney in Stuttgart, who may not wish to prejudice the Villach case by a hasty decision in a related matter. The US has approached German Federal authorities and asked them to step in and resolve the impasse.

The implications of these few cases alone clearly illustrate the need for an international agreement on transit problems which would remove the onus of illegality from actions which are undertaken only in the interest of Western security.

VI. AUSTRIA AND THE BATTLE ACT

The Provisions of the Act

Under the terms of the Mutual Defense Assistance Control Act of 1951 (Battle Act) United States economic, financial or military aid to any country is to be terminated if it "knowingly permits" the shipment of items of primary strategic importance to the Soviet Bloc. The President, upon the advice of the Director of Foreign

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Operations (Battle Act Administrator), may grant an exception from such sanctions when unusual circumstances warrant the continuation of aid because its cessation would be clearly detrimental to the security of the U.S. When recommending an exception, the administration carefully analyzes the specific case and takes into account the contribution of the respective country to the mutual security of the free world, the importance of imports received from the Soviet bloc and the adequacy of the country's controls over strategic exports to the Soviet bloc.

Political Considerations

Almost all countries which are subject to Battle Act determinations are openly associated with the North Atlantic Treaty Organization (NATO). If a presidential exception is granted for strategic shipments of any one of them it is a matter of public record: the President sends an unclassified letter, stating his decision and the reasons for it, to the six Congressional committees which must be notified under the Act. A short summary is usually released to the press.

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### Exception Procedures

Notification to the Congressional Committees of Austria's strategic shipments to the bloc are made in two parts: a presidential exception letter and a tabular report on licensed USA shipments.

The President's letter concerning Austria is similar to the exception letters granted for any other country under Battle Act determination, except for its classification as secret. It covers strategic shipments from Austria under a valid Austrian export license to any of the Soviet bloc countries. The special circumstances which are taken into account to justify exemption from the sanctions of the Act are the usual ones: prior commitments, originating in trade agreements or private contracts which were concluded before the Battle Act came into force; an economically essential quid pro quo; the need to conclude a trade agreement which might be jeopardized by the refusal to ship certain strategic items in limited quantities; failure of correctly identifying the strategic rating of a given commodity, and similar reasons. The President's letter directing continuation of aid to a country is an executive order and as such an official document.

Presidential exceptions up to 1 August 1953 were requested and granted for only three shipments, aggregating \$357,123. They consisted of a Diesel locomotive valued at \$83,600 which was shipped to Czechoslovakia; of 125 tons aluminum ingots, estimated at \$75,000 and ball bearings worth \$188,523, exported to Poland. All three deliveries were made under trade agreements concluded before the enactment of the Battle Act and were therefore considered "prior commitments".

In addition, two locomotives costing \$188,023, were delivered to Czechoslovakia in 1952 under another prior commitment but were at that time not reported by the Austrian Government, due to an oversight. The US expressed its dissatisfaction to Austria over the handling of this case but it will nevertheless be included in the next presidential exemptions letter.

A presidential exception will also be required in the future for a barter deal between Austria and East Germany which has been under consideration since the early summer. It involves the delivery from Austria of 3000 tons of rails, valued at \$315,000 to East Germany to be used by the S-Bahn in Berlin; in exchange for the rails Austria is to receive ferrochrom, ferrosilicon and ferro manganese in an amount equal to the value of the rails. The State Department and the Foreign Operations Administration approve of

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